



## The Role of the Child's Attorney at CRB Reviews

The expectations for a child's attorney at a CRB review are essentially the same as the expectations for the attorney at a review hearing in court. The Oregon State Bar publishes Specific Standards for Representation in Juvenile Dependency Cases<sup>1</sup> which outline the professional standards for attorneys who represent children. These standards require that the attorney ensures the child is aware that they have an attorney and that the attorney communicates regularly and effectively with the child. In order to provide competent representation, the attorney must establish a relationship with the child.

The Standards state that the attorney should make initial contact with the child within 24 hours of appointment and, when feasible, conduct an initial interview within 72 hours. Contact with the child must be conducted at least quarterly. The Standards include specific events when the attorney should have contact with the child, including before a court hearing or CRB review, before any important decision affecting the child's life, before and after significant transitions (like a placement move), and at the request of the child. These requirements for attorney contact with the child apply even with preverbal or very young children; young children can provide valuable information about their needs through their behavior and interactions with caregivers. The attorney is expected to conduct an appropriate investigation prior to a court hearing or CRB review, including reviewing agency files, interviewing the client, interviewing the caseworker, and contacting other agencies or professionals who are providing services to the child.

At the CRB, the attorney for the child should be prepared to address:

- Whether there is a basis for jurisdiction to continue
- Whether there is a continued need for placement
- Reasons the child can or cannot presently be protected in the family home if services are provided
- Whether DHS is making reasonable (or active, if ICWA) efforts to reunify the family
- Whether the court approved plan meets the child's wishes (or if the child has diminished capacity, is the best plan for the child)
- What is the child's position on the concurrent plan
- Whether previous orders regarding visitation/parenting time, services or other case-related issues should be modified; and
- Request specific findings and recommendations that advance the client's position.

<sup>1</sup> <http://www.osbar.org/docs/resources/juveniletaskforce/JTFR3.pdf>

The Standards for attorneys representing parents in Juvenile Court are similar to the Standards for attorneys representing children. As with the child's attorney, the parent's attorney should contact the parent client within 24 hours of appointment, and if possible, conduct an initial interview with the parent within 72 hours. After the first meeting, the parent's lawyer should have contact with the parent client before court hearings and CRB reviews; in response to contact by the parent client; when a significant change of circumstances needs to be discussed with the parent client; or when the lawyer is notified of emergencies or significant events regarding the child. The standards note that the parent's lawyer should not represent two or more parents even when there is no apparent conflict at the beginning of the case

Another expectation for lawyers representing parents is to provide or ensure that the parent client receives copies of all petitions, court orders, service plans and other relevant case documents unless prohibited by law, rule or court order. The standards note that the parent's lawyer's job extends beyond the courtroom; the lawyer should also be a counselor to the parent client. The lawyer needs to be able to discuss timelines established by the Adoption and Safe Families Act (ASFA), the impact of the required concurrent planning as well as the parent's participation in concurrent planning, and identification of barriers to the parent's participation in services.

Regarding an incarcerated parent, the parent's lawyer should be "particularly diligent" in representing the incarcerated parent. The lawyer should attempt to visit the client in the correctional facility as soon as possible after appointment and should attempt to facilitate visits or contact between the parent and the child.

In the investigation of the case, parent's lawyer should contact and meet the child, with the permission of the child's lawyer. The parent's lawyer should have contact with the other lawyers for the parties and with the child's CASA to gain knowledge of the background of the case. The parent's attorney should review the actual DHS case file as early as possible after appointment to the case and request copies of appropriate documents which have not already been provided to the attorney. If the parent's lawyer conducts an interview of a potential witness, the attorney should do so in the presence of a third person.

During CRB reviews and review hearings, the parent's attorney should be able to present information supporting the parent's position, including

- Whether there is a basis to continue jurisdiction and need to continue placement of the child;
- Whether DHS is making reasonable or active efforts to reunify the family, including why services have not been successful to date;
- Whether DHS's case plan or action agreement needs to be clarified or modified;
- Whether the child's placement is appropriate;
- The parent's position on development of the concurrent plan;
- The parent's position on whether the court-adopted plan is the best plan for the child;
- Whether previous court order regarding visitation, services or other case-related issues should be modified.